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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CENTER FOR BIOLOGICAL DIVERSITY,) Case No: C 10-01501 JCS
SIERRA FOREST LEGACY, ENVIRONMENTAL)
PROTECTION INFORMATION CENTER, and)
KLAMATH-SISKIYOU WILDLANDS CENTER,)
Plaintiffs,)
v.)
KEN SALAZAR, in his official capacity as)
Secretary of the Interior, DANIEL ASHE,¹ in his)
official capacity as Director, United States Fish &)
Wildlife Service, and UNITED STATES FISH &)
WILDLIFE SERVICE, an agency of the United)
States Department of the Interior,)
Defendants.)
FEDERAL DEFENDANTS' AND)
PLAINTIFFS' JOINT NOTICE OF)
RELATED SETTLEMENT AGREEMENTS,)
STIPULATION OF DISMISSAL, AND)
{PROPOSED} ORDER)

¹ Plaintiffs named Rowan Gould, in his official capacity as Acting Director of the Service, as a Defendant in this case. On June 30, 2011, Daniel Ashe was confirmed as the Service's Director. Director Ashe therefore is substituted for Mr. Gould pursuant to Federal Rule of Civil Procedure 25(d).

1 Plaintiffs Center for Biological Diversity (“Center”), Sierra Forest Legacy, Environmental
2 Protection Information Center, and Klamath-Siskiyou Wildlands Center (collectively, “Plaintiffs”),
3 and Defendants Kenneth Salazar, in his official capacity as Secretary of the U.S. Department of the
4 Interior, Daniel Ashe, in his official capacity as Director of the U.S. Fish and Wildlife Service
5 (“Service”), and the United States Fish and Wildlife Service (collectively, “Defendants”) hereby
6 notify the Court of approval of two settlement agreements in a related case, and stipulate to dismissal
7 of this case.

8 These settlement agreements were filed in multi-district litigation consolidated before District
9 Judge Emmet G. Sullivan in the U.S. District Court for the District of Columbia, and were approved
10 by Judge Sullivan on September 9, 2011. *In re Endangered Species Act Section 4 Deadline Litig.*,
11 Misc. Action No. 10-377 (EGS), MDL Docket No. 2165 (D.D.C.) (“ESA Section 4 MDL”), MDL
12 Docket (“Dkt.”) 55 and 56 (attached as Exhibits 1 and 2). On May 10, 2011, Defendants and
13 WildEarth Guardians (“Guardians”) moved the court in the ESA Section 4 MDL for approval of a
14 proposed settlement agreement that would resolve Guardians’ claims in that action. MDL Dkt. 31.
15 On July 12, 2011, Defendants and the Center moved for approval of a separate proposed settlement
16 agreement that would resolve the Center’s claims in the ESA Section 4 MDL. MDL Dkt. 42.
17 Together, those two settlement agreements provide for the Service’s completion of a proposed listing
18 rule or not-warranted finding for the West Coast Distinct Population Segment of the fisher (“fisher”)
19 by the end of fiscal year 2014. *Id.*, Dkt. 31-1, at ¶ 2 (attached as Exhibit 3), and Dkt. 42-1, at B(3)(d)
20 (attached as Exhibit 4).

21 As stated by Plaintiffs and Defendants in their July 15, 2011 Joint Status Report and
22 Stipulated Request for Extension of Stay (Dkt. 47), the two settlement agreements would resolve the
23
24

issues pending before this Court with respect to the fisher and, if approved by the MDL court, Plaintiffs and Defendants in this case would jointly move to dismiss the present litigation.

The MDL court approved those settlements on September 9, 2011. *See* Exhibits 1 and 2. Accordingly, pursuant to Federal Rule of Civil Procedure 41(a) and Civil L.R. 7-12, Plaintiffs and Defendants hereby stipulate to the dismissal of Plaintiffs' Complaint for Declaratory and Injunction Relief (Dkt. 1) with prejudice. Plaintiffs and Defendants agree that, notwithstanding dismissal of this action, the Court retains jurisdiction to consider any stipulation or motion concerning an award of costs and attorneys' fees pursuant to ESA section 11(g)(4), 16 U.S.C. § 1540(g)(4). Plaintiffs and Defendants will attempt to reach agreement as to fee recovery. If they are unable to do so, Plaintiffs will file an application with the Court for the recovery of fees and costs within 60 days of the approval of this Order by the Court.

/s/ George Torgun (with permission)
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[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 5, 2011

The image shows the official seal of the Northern District of California, United States District Court. The seal is circular with a double-line border. The outer ring contains the text "UNITED STATES DISTRICT COURT" at the top and "NORTHERN DISTRICT OF CALIFORNIA" at the bottom. Inside this, another ring contains the text "THE HONORABLE" on the left and "JUDGE" on the right. A large, blue, handwritten signature, which appears to be "J. C. Spero", is written across the center of a rectangular box. Below the signature, the name "Judge Joseph C. Spero" is printed in a smaller, black, serif font.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2011, I caused a copy of the foregoing to be served on the counsel of record by means of the Court's electronic filing system:

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/s/ *Daniel Pollak*
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